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May 16, 2024

VIA ECF

Hon. Judith C. McCarthy
United States Magistrate Judge
United States District Court
Southern District of New York
United States Courthouse
300 Quarropas Street
White Plains, NY 10601-4150

Re: Safranek v. Wormuth, et al., No. 23 Civ. 5985 (PMH) (JCM)

Dear Judge McCarthy:

Our Firm represents Plaintiff Austin Safranek, a former West Point Cadet, in the above-referenced matter.

By Order of the Honorable Philip M. Halpern dated May 15, 2024 (ECF-22), this case has been referred to Your Honor for settlement purposes. The outstanding issue is the amount of attorney's fees and costs that are to be paid to Plaintiff by the Government.

By way of background, Mr. Safranek filed an action in this Court under the APA seeking judicial review of an adverse determination by the Army Board for the Correction of Military Records ("ABCMR") concerning his separation from the Academy and subsequent discharge from the military with an educational expense recoupment requirement (ECF-1). In response, the Court, on consent of the parties, remanded the matter back to the ABCMR with instructions for a new determination (ECF-16). Following additional briefing before the ABCMR, Mr. Safranek prevailed in the new ABCMR determination (*See* Status Report to the Court dated March 29, 2024, (ECF-17)). The Court then closed this matter, subject to it being reopened upon application of the parties in connection with the sole remaining issue, that is, the amount of attorney fees and costs the Government is to reimburse Plaintiff as the prevailing party under the Equal Access to Justice Act. (The present deadline for doing so is June 4, 2024).

The parties, through counsel, discussed the attorney fees issue but recently reached an impasse. Accordingly, the Court, upon the request of the undersigned (ECF-21), referred this matter to Your Honor for settlement purposes (ECF-22).

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New Jersey

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We respectfully await instructions from Your Honor regarding how Your Honor may wish to proceed.

Respectfully submitted,

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